



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Coastal Electronics, Inc.--Request for  
Reconsideration  
File: B-227880.5  
Date: May 4, 1988

---

### DIGEST

1. The General Accounting Office finds without merit a request for reconsideration of a decision that an agency properly excluded the protester's proposal from the competitive range where the protester proposed excessive staffing based on an unreasonable reliance on a solicitation worksheet for calculating staffing after the agency advised offerors that the worksheet was provided for information purposes only and was not mandatory for use.
2. Protest that agency should have advised offeror that its initial proposal was overstaffed before eliminating it from the competitive range is denied where deficiency resulted from the offeror's lack of diligence, competence or inventiveness in preparing its proposal.

---

### DECISION

Coastal Electronics, Inc., requests that we reconsider our decision in Coastal Electronics, Inc., B-227880.4, Feb. 8, 1988, 88-1 CPD ¶ 120. In that decision, we denied Coastal's protest against the exclusion of its proposal from the competitive range under Department of the Army request for proposals (RFP) No. DAEA08-87-R-0017, for services associated with operating administrative telephone systems at eight Army installations in the Southeast United States.

We deny the request for reconsideration.

As explained in that decision, the solicitation sought proposals for operation, maintenance, installation and repair of systems at eight installations in Alabama, Georgia and South Carolina. The RFP allowed offerors to submit proposals for various line items of service, including providing switchboard operators for a basic year and 4 options. The RFP provided five criteria for determining staffing, one of which was "military population."

042087/135757

At the request of several potential offerors who attended the preproposal conference, the agency provided a worksheet used by the Army in estimating the effect of military population upon switchboard staffing. The agency specifically advised offerors at the conference that the worksheet would be provided for information only; the worksheet itself carried a notation that it was to be used for electro-mechanical switchboards, which are present at only two of the eight sites, and which are to be phased out in the 1st year of contract performance.

The agency received initial cost and technical proposals on June 22, 1987. Offerors twice submitted revised cost proposals in response to revised evaluation formulas and workload data, on July 27 and August 19. On August 21, the agency notified Coastal that it had been excluded from the competitive range based upon a determination that Coastal's proposed price was so much higher than prices offered by other technically acceptable offerors that there was no reasonable expectation that its price could be reduced sufficiently to make it competitive. Specifically, it appeared that Coastal's staffing levels, which were derived from the agency-provided worksheet, were much higher than the levels provided by the other offerors, who had developed their own staffing formulas. On August 26, Coastal protested its exclusion from the competitive range as both untimely and unwarranted.

Upon discovering in the course of this protest that it was excluded from the competitive range specifically because of its high price, Coastal filed a second protest on October 19, arguing that use of the agency-provided worksheet was mandatory for all offerors. Since this issue was obviously determinative of the previous protest, our Office consolidated all issues for consideration with the October 19 protest.

In our decision we found by a preponderance of the evidence that the agency had advised attendees at the preproposal conference that the worksheet was not mandatory. While Coastal argued that if this were true, the agency should have marked the worksheet as for information only, we accepted the agency's explanation that this was an oversight and declined to view the absence of any such legend as convincing evidence in support of the protest. We examined Coastal's arguments that the worksheet was essential to preparing a proposal and rejected them, pointing out that it was unreasonable for Coastal to rely on the worksheet since the worksheet itself indicated that it was not designed for use with the types of switchboard used in the contract.

Coastal now requests reconsideration of our decision, denying that the preponderance of the evidence established the discretionary nature of the worksheet. Coastal argues that the worksheet provided the only vehicle for determining staffing and that it is improper to exclude its proposal from the competitive range based on "agency oversight," that it was improper for the agency to inform offerors that the worksheet was for information only at a preproposal conference, and that since Coastal had a different understanding of the solicitation than other offerors, proposals were not submitted on a common basis.

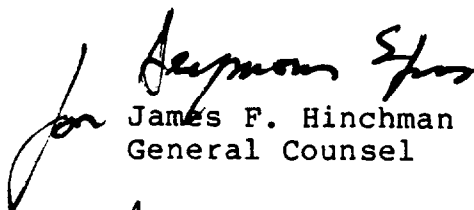
Coastal's argument mischaracterizes our findings relative to "preponderance of the evidence" and "oversight." We found nothing in the solicitation that indicated that the worksheet was mandatory; we simply found that the agency adequately explained the omission of an "information only" marking as an oversight. In examining whether other parties shared Coastal's confusion, a possibility that might indicate support for Coastal's allegations, we found by a preponderance of the evidence that the agency explained the worksheet's purpose and that none of the other offerors' shared Coastal's belief that the worksheet was mandatory. Indeed, we find especially persuasive the fact that Coastal did not dispute in its initial protest and does not dispute in its reconsideration request the fact that Coastal, along with the other offerors that attended the preproposal conference, was specifically informed by the Army that use of the worksheet was not mandatory and was being provided for information purposes only. Coastal, rather, ignores this fact and argues that it reasonably relied upon the "four-corners" of the solicitation. We think, however, that Coastal knowingly failed to follow the Army's oral advice at its own risk.

Coastal also challenges the finding in our decision that its reliance on the worksheet was not reasonable. Coastal concedes that the worksheet was designed for a different type of switchboard but contends that the Army specifically modified the form to reflect phasing out the electro-mechanical switchboards. Coastal argues that the worksheet fairly reflects staffing and that it is unreasonable to accept offers based on different formulas, which result in staffing 50 percent lower than that required 5 years previously. Coastal also believes that it is unreasonable for the agency to provide a worksheet applicable only to the first 6 months of a 5-year procurement. Coastal argues that the agency's failure to delete the reference to "electro-mechanical" switchboards was another "oversight."

As we found before, considering the agency's reluctance to provide the worksheet, its warnings to the offerors at the preproposal conference, and the legend on the worksheet, we find no basis for changing our conclusion that it was unreasonable for Coastal to rely on the worksheet. There was certainly no basis to conclude that the worksheet constituted a mandatory vehicle for determining staffing; other offerors used their expertise to develop their own realistic staffing formulas, as the agency expected. The agency here found the offered staffing of the other offerors to be adequate; the determination of the number of employees required to meet a performance work statement is largely a management decision involving subjective judgments that generally are inappropriate for our review. Bay Tankers, Inc., B-227865.3, Nov. 23, 1987, 87-2 CPD ¶ 500. We have no basis to question the agency's determination. In any event, it is clear that offerors were free to propose staffing levels that met the Performance Work Statement, that Coastal's staffing was far in excess of that proposed by other offerors, that the staffing levels offered by other offerors were adequate and that Coastal's price consequently was so much higher than prices of other acceptable offerors that its exclusion from the competitive range was justified.

Coastal also reiterates an argument from its August 26 protest, that its exclusion from the competitive range was untimely, in that the agency should have been able to determine from the protester's June 22 technical proposal that its staffing levels were out of line with other offers received, obligating the agency to advise Coastal of its overstaffing before asking it to submit two more cost proposals on July 27 and August 19. The short answer to this contention is that the agency had no problem with Coastal's technical proposal; Coastal was eliminated solely on the basis of price. Beyond that, an agency is not obligated to point out weaknesses resulting from an offeror's lack of diligence, competence or inventiveness in preparing its proposal. Creativision, Inc., B-225829, July 24, 1987, 66 Comp. Gen. \_\_\_\_\_, 87-2 CPD ¶ 78. Here, Coastal's rejection from the competition range resulted from its unreasonable reliance on the worksheet which it knew or should have known was provided by the agency for informational purposes only. Thus, the fault lies with the protester.

The request for reconsideration is denied.

  
James F. Hinchman  
General Counsel